IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 954 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BOTAD NAGARPALIKA - Petitioner(s)

Versus

MAHENDRA HIRALAL JOSHI - Respondent(s)

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Appearance :

M/S THAKKAR ASSOC. for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/09/2005

ORAL JUDGMENT

1. Though served no one appears for the respondent. In the present petition, the petitioner employer has challenged the legality of the award dated 8/11/2001

passed by the Industrial Tribunal, Bhavnagar. By the impugned award the Industrial Tribunal was pleased to allow the reference of the respondent workman partly. The respondent was ordered to be made permanent on the post of Naka Karkun and be paid wages accordingly. It was provided that he will be deemed to be regularised from 1/1/91 and will be entitled to receive notional benefits till the date of award.

2. The petitioner had resisted the reference of the respondent workman. It is the case of the petitioner that minimum education qualification required for the post of Naka Karkun was SSC pass. The respondent workman who was working as peon did not possess such qualification. In fact the respondent had admitted in his deposition before the Industrial Tribunal that he has not passed SSC. When the respondent was not holding the education qualification, it was not open for the Industrial Tribunal to direct his regularisation on the post in question. The Industrial Tribunal ignored the objections of the employer by stating that no material was produced by the employer. The workman had approached the Industrial Tribunal seeking regularisation. He had admitted that he did not possess the qualification of SSC

pass. In that view of the matter directions for regularising him on a post which prescribed minimum education of SSC pass ought not to have been granted. In the result, petition is allowed. Impugned award is set aside. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)

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